



United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,263	03/29/2004	Melissa Silvestro	EMC-013 (EMC-04-047)	2768
32836	7590 06/22/2006		EXAM	INER
GUERIN & RODRIGUEZ, LLP 5 MOUNT ROYAL AVENUE MOUNT ROYAL OFFICE PARK			AYRES, TIMOTHY MICHAEL	
			ART UNIT	PAPER NUMBER
MARLBOROU	MARLBOROUGH, MA 01752		3637	

DATE MAILED: 06/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)			
	10/812,263	SILVESTRO ET AL.			
Office Action Summary	Examiner	Art Unit			
	Timothy M. Ayres	3637			
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply					
A SHORTENED STATUTORY PERIOD FOR WHICHEVER IS LONGER, FROM THE MAII - Extensions of time may be available under the provisions of 3 after SIX (6) MONTHS from the mailing date of this communic. If NO period for reply is specified above, the maximum statute. Failure to reply within the set or extended period for reply will. Any reply received by the Office later than three months after earned patent term adjustment. See 37 CFR 1.704(b).	LING DATE OF THIS COMMUNION TO CFR 1.136(a). In no event, however, may a relation. Dry period will apply and will expire SIX (6) MON by statute, cause the application to become AB	CATION. apply be timely filed THS from the mailing date of this communication. ANDONED (35 U.S.C. § 133).			
Status					
3) Since this application is in condition for	This action is non-final. allowance except for formal matt	•			
closed in accordance with the practice	under <i>Ex parte Quayle</i> , 1935 C.D	. 11, 453 O.G. 213.			
Disposition of Claims	•				
4) ⊠ Claim(s) <u>1-20</u> is/are pending in the app 4a) Of the above claim(s) is/are solutions 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☒ Claim(s) <u>1-20</u> are subject to restriction	withdrawn from consideration.				
Application Papers		·			
9) The specification is objected to by the E 10) The drawing(s) filed on is/are: a Applicant may not request that any objectio Replacement drawing sheet(s) including the 11) The oath or declaration is objected to by	accepted or b) objected to n to the drawing(s) be held in abeyand correction is required if the drawing	ce. See 37 CFR 1.85(a). s) is objected to. See 37 CFR 1.121(d).			
Priority under 35 U.S.C. § 119		•			
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 					
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO 3) Information Disclosure Statement(s) (PTO-1449 or PTO Paper No(s)/Mail Date	-948) Paper No(s	ummary (PTO-413))/Mail Date iformal Patent Application (PTO-152) 			

DETAILED ACTION

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - Claims 1-10 and 17-20, drawn to an adjustable side rail, classified in class 312, subclass 334.4.
 - II. Claims 11-16, drawn to a method of installing a unit of equipment, classified in class 312, subclass 352.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the method of installing a unit of equipment does not require the tab to have a notch to catch an edge of a hole in the mounting rail thereby allowing just a straight tab on a rail portion while the product claims of Invention I requires a notch.
- 3. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the

Application/Control Number: 10/812,263

Art Unit: 3637

requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number: 10/812,263

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TMA 6/19/06

JANET M. WILKENS
PRIMARY EXAMINER

Page 4